

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT				1. CONTRACT ID CODE		PAGE 1 OF 30 PAGES	
2. AMENDMENT/MODIFICATION NO. <div style="text-align: right;">004</div>		3. EFFECTIVE DATE March 19, 2009		4. REQUISITION/PURCHASE REQ. NO.		5. PROJECT NO. (If applicable)	
6. ISSUED BY U.S. Department of Energy Environmental Management Consolidated Business Center 250 E. 5th Street, Suite 500 Cincinnati, OH 45202		7. ADMINISTERED BY (If other than Item 6)		CODE			
8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code)				(X)		9A. AMENDMENT OF SOLICITATION NO. DE-RP30-09CC40020	
				X		9B. DATED (SEE ITEM 11) January 16, 2009	
						10A. MODIFICATION OF CONTRACT/ORDER NO.	
						10B. DATED (SEE ITEM 11)	
CODE		FACILITY CODE					
11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS							
<input checked="" type="checkbox"/> The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers <input type="checkbox"/> is extended, <input checked="" type="checkbox"/> is not extended. Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods: (a) By completing items 8 and 15, and returning <u>1</u> copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment your desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.							
12. ACCOUNTING AND APPROPRIATION DATA (If required) N/A							
13. THIS ITEM ONLY APPLIES TO MODIFICATION OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.							
CHECK ONE	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.						
	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).						
	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:						
	D. OTHER (Specify type of modification and authority)						
E. IMPORTANT: Contractor <input type="checkbox"/> is not, <input type="checkbox"/> is required to sign this document and return _____ copies to the issuing office.							
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.) SEE PAGE 2							
15A. NAME AND TITLE OF SIGNER (Type or print)				16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)			
15B. CONTRACTOR/OFFEROR		15C. DATE SIGNED		16B. UNITED STATES OF AMERICA		16C. DATE SIGNED	
(Signature of person authorized to sign)				(Signature of Contracting Officer)			

The purpose of the amendment is to incorporate revisions to solicitation DE-RP30-09CC40020 as described below:

Section H

- 1. The Sections H.18, H.19, H.20, H.21, H.22, H.23, and H.24 requirements have been amended and replaced as follows. A redline/strikeout version of these changes has been posted on the Paducah Remediation web site under the Reference Documents link in the Workforce Breakdown and Pay and Benefits section.**

H. 18 DEFINITIONS

For purposes of Clause H.19, Workforce Transition and Employee Hiring Preferences, Clause H.20, Employee Compensation: Pay and Benefits, Clause H.21, Special Provisions Applicable to Workforce Transition and Employee Compensation: Pay and Benefits, Clause H.22, Workforce Transition and Benefits Transition: Plans and Timeframes, Clause H.23, Post-Contract Responsibilities for Pension and Other Benefit Plans, and Clause H.24, Labor Relations, the following definitions are applicable (unless otherwise specified):

- (a) “Workforce Transition Period” means the six month period following the date of contract award.
- (b) “Grandfathered Employees” means employees who are defined as Grandfathered Employees under the multi-employer pension plan sponsored by the Bechtel Jacobs Company, LLC (BJC) (Bechtel Jacobs Company LLC Pension Plan For Grandfathered Employees) (hereinafter “BJC MEPP”), in accordance with the terms of the BJC MEPP and applicable law.
- (c) “PRS Incumbent Contractor” means Paducah Remediation Services, LLC (PRS LLC) and its first and second tier subcontractors under DOE Contract DE-AC30-06EW05001.
- (d) “PRS Incumbent Employees” means employees (1) who hold regular appointments or who are regular employees on the rolls of PRS LLC and Grandfathered Employees on the rolls of PRS LLC’s first and second tier subcontractors; and (2) who are employed at the Paducah Gaseous Diffusion Plant site under DOE Contract DE-AC30-06EW05001 during the Workforce Transition Period.
- (e) “USEC” means the United States Enrichment Corporation.

- (f) “USEC Employees” means employees who hold regular appointments or who are regular employees on the rolls of USEC at either the Portsmouth or Paducah Gaseous Diffusion Plant site. The applicable site will be identified in the relevant paragraphs and/or clause(s). If employment at a specific site is not identified, the clause(s) or paragraphs are applicable to USEC Employees employed at both Gaseous Diffusion Plant sites.
- (g) “Non-Grandfathered Employees” means employees who are not defined as Grandfathered Employees under the BJC MEPP in accordance with the terms of the BJC MEPP and applicable law.
- (h) “SST” means Swift & Staley Mechanical Contractors, Inc (SST Inc) and its first and second tier subcontractors under DOE Contract DE-AC24-05OH20178.
- (i) “SST Employees” means employees (1) who hold regular appointments or who are regular employees on the rolls of SST Inc and Grandfathered Employees on the rolls of SST Inc’s first and second tier subcontractors; and (2) who are employed at the Paducah Gaseous Diffusion Plant site under DOE Contract DE-AC24-05OH20178 during the Workforce Transition Period.
- (j) “UDS” means Uranium Disposition Services, LLC (UDS LLC) and its first and second tier subcontractors at the Paducah Gaseous Diffusion Plant site under Contract DOE DE-AC-05-02OR22717.
- (k) “UDS Employees” means employees (1) who hold regular appointments or who are regular employees on the rolls of UDS LLC and Grandfathered Employees on the rolls of UDS LLC’s first and second tier subcontractors; and (2) who are employed at the Paducah Gaseous Diffusion Plant site under DOE Contract DE-AC05-02OR22717 during the Workforce Transition Period.
- (l) “Paducah Contractors” means the PRS Incumbent Contractor, SST, UDS, and USEC.

H.19 WORKFORCE TRANSITION AND EMPLOYEE HIRING PREFERENCES

- (a) Hiring Preferences. Employees will receive a right of first refusal and/or other preference in hiring for vacancies for non-managerial positions (i.e. all those below the first line of supervision) in non-construction activities in Section C, Performance Work Statement (PWS), in accordance with this clause, and any applicable collective-bargaining agreement(s) and site seniority, as set forth below.

- (1) During the Workforce Transition Period, the Contractor shall provide the right of first refusal and preferences in hiring in the following order of precedence:
 - (i) The Contractor shall give a right of first refusal for vacancies in non-managerial positions under this contract to individuals (1) who are PRS Incumbent Employees, USEC Employees who have been identified by their employer as being at risk of being involuntarily separated, SST Employees who have been identified by their employer as being at risk of being involuntarily separated, and UDS Employees who have been identified by their employer as being at risk of being involuntarily separated; (2) who are employed at the Paducah Gaseous Diffusion Plant site; and (3) who hold positions or perform functions during the Workforce Transition Period that are substantially equivalent to the vacancies in such non-managerial positions under this contract and also to individuals who held positions or performed functions during the six months preceding the first day of the Workforce Transition Period that are substantially equivalent to the vacancies in such non-managerial positions under this contract.
 - (ii) The Contractor shall give a preference in hiring for vacancies in non-managerial positions under this contract to individuals (1) who are PRS Incumbent Employees, USEC Employees who have been identified by their employer as being at risk of being involuntarily separated, SST Employees who have been identified by their employer as being at risk of being involuntarily separated, and UDS Employees who have been identified by their employer as being at risk of being involuntarily separated; (2) who are employed at the Paducah Gaseous Diffusion Plant site; and (3) who meet the qualifications for a particular position.
 - (iii) The Contractor shall give a preference in hiring for vacancies in non-managerial positions under this contract to individuals (1) who are PRS Incumbent Employees, USEC Employees who have been identified by their employer as being at risk of being involuntarily separated, SST Employees who have been identified by their employer as being at risk of being involuntarily separated, and UDS Employees who have been identified by their employer as being at risk of being involuntarily separated; (2) who are employed at the Paducah Gaseous Diffusion Plant site; and (3) who may not meet the

qualifications for a particular position, but who agree to become qualified and can become qualified by the commencement of active employment under this contract with the training provided pursuant to Clause H.21(a).

- (iv) Subsequent to the application of the right of first refusal in Paragraph (a)(1)(i) and the preferences in hiring in Paragraphs (a)(1)(ii) and (iii) above, the Contractor shall give a preference in hiring for vacancies pursuant to Paragraph (a)(3) below.
- (2) After the Workforce Transition Period and continuing throughout the remaining period of performance under this contract, the right of first refusal and/or other preferences in hiring shall be provided in the following order of precedence:
 - (i) The Contractor shall give a right of first refusal in hiring for vacancies in non-managerial positions under this contract to USEC Employees (1) who are employed at the Paducah Gaseous Diffusion Plant site; (2) who have been identified by their employer as being at risk of being involuntarily separated; and (3) who hold or have held positions or perform or have performed functions which are substantially equivalent to vacancies in such non-managerial positions or functions under this contract.
 - (ii) The Contractor shall give a preference in hiring for vacancies in non-managerial positions under this contract, to USEC Employees (1) who are employed at the Paducah Gaseous Diffusion Plant site; and (2) who have been identified by their employer as being at risk of being involuntarily separated, in the following order of precedence:
 - (A) USEC Employees who meet the qualifications for a particular position.
 - (B) USEC Employees who may not meet the qualifications for a particular position but who agree to become qualified and can become qualified by the commencement of active employment under this contract with the training provided pursuant to Clause H.21(a).
 - (iii) The Contractor shall give a preference in hiring for vacancies in non-managerial positions under this contract to SST

Employees and UDS Employees (1) who are employed at the Paducah Gaseous Diffusion Plant site at the time of the vacancies; and (2) who have been identified by their respective employers as being at risk of being involuntarily separated, in the following order of precedence:

- (A) SST Employees and UDS Employees who hold positions or perform functions at the time the vacancy arises that are substantially equivalent to the vacancies in such non-managerial positions under this contract.
- (B) SST Employees and UDS Employees who meet the qualifications for particular positions.
- (C) SST Employees and UDS Employees who may not meet the qualifications for a particular position but who agree to become qualified and can become qualified by the commencement of active employment under this contract for the particular positions with the training provided pursuant to Clause H.21(a).

For purposes of this Paragraph (a)(2)(iii), the phrase “during the Workforce Transition Period” contained in Clause H.18(i)(2) and (k)(2) is not applicable. The respective employees are to be employed at the Paducah Gaseous Diffusion Plant site at the time of the vacancy.

- (iv) Subsequent to the application of the right of first refusal in Paragraph (a)(2)(i) and the preferences in hiring in Paragraphs (a)(2)(ii) and (iii) above, the Contractor shall give a preference in hiring for vacancies in the order of precedence as set forth in Paragraph (a)(3) below.
- (3) During the entire period of performance under this contract, but subordinate to the preferences set out in Paragraphs (a)(1)(i) – (iii) and (a)(2)(i) – (iii) above, the Contractor shall provide preferences in hiring in the following order of precedence:
- (i) The Contractor shall give a preference in hiring for vacancies in non-managerial positions under this contract to USEC Employees employed at the Paducah Gaseous Diffusion Plant site (1) who have been identified by their employer as being at risk of being involuntarily separated from employment by a plant closing or mass layoff (as such terms are defined in Section 2101(a)(2) and (3) of Title 29 of the

United States Code) at the Paducah Gaseous Diffusion Plant site; and (2) who are qualified and/or who may not meet the qualifications for a particular position, but who agree to become qualified and can become qualified by the commencement of active employment under this contract with the training provided pursuant to Clause H.21(a).

- (ii) The Contractor shall give a preference in hiring for vacancies in non-managerial positions under this contract to individuals (1) who are former employees of USEC, former employees of the PRS Incumbent Contractor, and former employees of the PRS Incumbent Contractor's first and second-tier subcontractors; and (2) who are entitled to recall rights consistent with any applicable site seniority and any applicable collective bargaining agreement(s) at the Paducah Gaseous Diffusion Plant site.
- (iii) The Contractor shall give a preference in hiring for vacancies in non-managerial positions under this contract to individuals (1) who are Grandfathered Employees and who are former employees of the PRS Incumbent Contractor, SST, UDS, and USEC at the Paducah Gaseous Diffusion Plant site; (2) who have been involuntarily separated (other than for cause) from employment; and (3) who are eligible for the hiring preference contained in the clause in Section I of this contract entitled "DEAR 952.226-74, Displaced Employee Hiring Preference" and with the provisions of any applicable Work Force Restructuring Plan, as amended from time to time, regarding the preferential hiring of employees.
- (iv) The Contractor shall give a preference in hiring for non-managerial positions under this contract to individuals (1) who are former employees of the PRS Incumbent Contractor, SST, UDS, and USEC; and any other DOE contractor at the Paducah Gaseous Diffusion Plant site; (2) who were involuntarily separated (other than for cause) from employment; and (3) who are eligible for the hiring preference contained in the clause in Section I of this contract entitled "DEAR 952.226-74, Displaced Employee Hiring Preference" and with the provisions of any applicable Work Force Restructuring Plan, as amended from time to time, regarding the preferential hiring of employees.
- (v) The Contractor shall give a preference in hiring for vacancies in non-managerial positions under this contract to individuals

(1) who were formerly employed by any other DOE contractor at a DOE defense nuclear facility; and (2) who are eligible for the hiring preference contained in the clause in Section I of this contract entitled "DEAR 952.226-74, Displaced Employees Hiring Preference" as provided in that clause and with the provisions of any applicable Work Force Restructuring Plan, as amended from time to time, regarding the preferential hiring of employees.

- (vi) The Contractor shall give a preference in hiring for vacancies in non-managerial positions under this contract to individuals (1) who were formerly employed at the Paducah Gaseous Diffusion Plant site by the PRS Incumbent Contractor, SST, UDS, and USEC; (2) who were involuntarily separated (other than for cause) from their employment at the Paducah Gaseous Diffusion Plant site; and (3) who are qualified for the position or who may not meet the qualifications for a particular position, but who agree to become qualified and can become qualified by the commencement of active employment under this contract.
- (vii) The Contractor shall give a preference in hiring for vacancies in non-managerial positions under this contract to individuals (1) who have separated from employment at the Paducah Gaseous Diffusion Plant site; (2) who are not barred from seeking employment at the Paducah Gaseous Diffusion Plant site by the terms of employee waivers or releases of claims they executed; and (3) who are qualified for a particular position or who may not meet the qualifications for a particular position, but who agree to become qualified and can become qualified by the commencement of active employment under this contract.
- (4) Clauses H.19(a)(1), (2), and (3) do not prohibit the Contractor from selecting the Contractor's existing employees at the Paducah Gaseous Diffusion Plant site for positions or functions under this contract.
- (b) Costs. Any costs incurred by the Contractor as a result of the Contractor's failure to comply with the hiring preferences as set forth in this contract will be unallowable, unless such costs were incurred as the result of the Contracting Officer's direction.

H.20 EMPLOYEE COMPENSATION: PAY AND BENEFITS

(a) Contractor Employee Compensation Plan

The Contractor shall submit by the end of the 90 day contract transition period identified in Section F.2(b) a Contractor Employee Compensation Plan demonstrating how the Contractor will comply with the requirements of this contract. The Contractor Employee Compensation Plan shall describe the Contractor's policies regarding compensation, pensions and other benefits, and how these policies will support at reasonable cost the effective recruitment and retention of a highly skilled, motivated, and experienced workforce.

(b) Total Compensation System

The Contractor shall develop, implement and maintain formal policies, practices and procedures to be used in the administration of its compensation system including a compensation system Self-Assessment Plan consistent with FAR 31.205-6 and DEAR 970.3102-05-6; "Compensation for Personal Services" (Total Compensation System). DOE-approved standards (e.g., set forth in an advance understanding or appendix), if any, shall be applied to the Total Compensation System. The Contractor's Total Compensation System shall meet the tests of allowability established by and in accordance with FAR 31.205-6 and DEAR 970.3102-05-6, be fully documented, consistently applied, and acceptable to the Contracting Officer. Costs incurred in implementing the Total Compensation System shall be consistent with the Contractor's documented Contractor Employee Compensation Plan approved by the Contracting Officer.

(c) Appraisals of Contractor Performance

DOE will conduct periodic appraisals of Contractor performance with respect to Total Compensation System implementation. Such appraisals will be conducted through either DOE validation of the Contractor's performance self-assessment of its Total Compensation System or third party expert review.

(d) Reports and Information

The Contractor shall provide the Contracting Officer the following reports and information with respect to pay and benefits provided under this contract:

- (1) An Annual Contractor Salary-Wage Increase Expenditure Report to include, at a minimum, breakouts for merit, promotion, variable pay, special adjustments, and structure movements for each pay structure showing actual against approved amounts.
- (2) A list of the top five most highly compensated executives as defined in FAR 31.205-6(p)(2)(ii) and their total cash compensation at the time of contract award, and at the time of any subsequent change to their total cash compensation.
- (3) An Annual Report of Contractor Expenditures for Employee Supplemental Compensation through the Department Workforce Information System (WFIS) Compensation and Benefits Module no later than March 1 of each year.
- (4) A performance self-assessment of the Total Compensation System implementation and results to include an evaluation of total benefits using the Employee Benefits Value Study and the Employee Benefits Cost Survey Comparison Analysis described in Paragraphs (f)(3)(i) and (ii) below.

(e) Pay and Benefits Programs

The Contractor shall establish pay and benefit programs for employees in accordance with applicable law, any applicable collective bargaining agreement(s), the terms and conditions of this contract, including Clause H.21, Special Provisions Applicable to Workforce Transition and Employee Compensation: Pay and Benefits, and the following requirements as set forth below; provided, however, that employees scheduled to work fewer than 20 hours per week receive only those benefits required by law. Employees are eligible for benefits, subject to the terms, conditions, and limitations of each benefit program.

(1) Pay

- (i) The Contractor shall provide equivalent pay to the following employees hired by the Contractor as compared to pay provided to those employees by the PRS Incumbent Contractor, SST, UDS, and/or USEC for at least the first year of the term of this contract:
 - (A) PRS Incumbent Employees hired by the Contractor;
 - (B) USEC Employees hired by the Contractor for positions or to perform functions for the Contractor that are

substantially equivalent to the positions held or functions they performed for USEC at the Paducah Gaseous Diffusion Plant site; and

- (C) SST Employees and UDS Employees hired by the Contractor for positions or to perform functions for the Contractor that are substantially equivalent to the positions held or functions they performed for their respective employers at the Paducah Gaseous Diffusion Plant site.
- (ii) All other employees hired by the Contractor shall receive pay which is competitive with the industry from which the Contractor recruits its employees, and in accordance with the terms and conditions of this contract, any applicable collective bargaining agreement(s), and applicable law, including Section 4(c) of the Service Contract Act, as applicable.
- (2) Pension and Other Benefits. The Contractor shall provide a total package of benefits to PRS Incumbent Employees, USEC Employees, SST Employees, and UDS Employees, and all other employees who are hired by the Contractor in accordance with the terms and conditions of this contract, any applicable collective bargaining agreement(s), and applicable law.
- (3) Cash Compensation
 - (i) The Contractor shall submit the following to the Contracting Officer for a determination of cost allowability for reimbursement under the contract:
 - (A) Any additional compensation system self-assessment data requested by the Contracting Officer that may be needed to validate and approve the Total Compensation System.
 - (B) Any proposed major compensation program design changes prior to implementation.
 - (C) An annual Compensation Increase Plan (CIP).
 - (D) Individual compensation actions for key personnel, including initial and proposed changes to base salary and/or payments under an Executive Incentive Compensation Plan.

- (E) Any proposed establishment of an incentive compensation plan (variable pay plan/pay-at-risk).
 - (ii) The Contracting Officer's approval of individual compensation actions will be required only for key personnel as identified in Clause H.6, Key Personnel of this contract, and all other named key personnel, management and senior personnel as identified by the Contracting Officer.
 - (iii) Severance Pay is not reimbursable under this contract for an employee who:
 - (A) Voluntarily separates, resigns or retires from employment,
 - (B) Is offered comparable employment with a successor/replacement contractor,
 - (C) Is offered comparable employment with a parent or affiliated company, or
 - (D) Is discharged for cause.
 - (iv) Service credit for purposes of determining severance pay does not include any period of prior service for which severance pay has been previously paid through a DOE cost-reimbursement contract.
- (f) Pension and Other Benefit Programs
- (1) No presumption of allowability will exist when the Contractor implements a new benefit plan or makes changes to existing benefit plans until the Contracting Officer makes a determination of cost allowability for reimbursement for new or changed benefit plans.
 - (2) Cost reimbursement for pension and other benefit programs sponsored by the Contractor will be based on the Contracting Officer's approval of Contractor actions pursuant to an approved "Employee Benefits Value Study" and an "Employee Benefits Cost Survey Comparison" as described below.
 - (3) Unless otherwise stated, or as directed by the Contracting Officer, the Contractor shall submit the studies required in paragraphs (i)

and (ii) below. The studies shall be used by the Contractor as part of its performance self-assessment described in Paragraph (d)(4) above and in calculating the cost of benefits under existing benefit plans. In addition, the Contractor shall submit updated studies to the Contracting Officer for approval prior to the adoption of any change to a pension or other benefit plan.

- (i) An Employee Benefits Value Study (Ben-Val), every two years each for Grandfathered Employees and Non-Grandfathered Employees benefits, which is an actuarial study of the relative value (RV) of the benefits programs offered by the Contractor to Grandfathered Employees and Non-Grandfathered Employees measured against the RV of benefit programs offered by comparator companies approved by the Contracting Officer. To the extent that the value studies do not address post retirement benefits other than pensions, the Contractor shall provide a separate cost and plan design data comparison for the post retirement benefits other than pensions using external benchmarks derived from nationally recognized and Contracting Officer approved survey sources; and
 - (ii) An Employee Benefits Cost Study Comparison, annually each for Grandfathered Employees and Non-Grandfathered Employees, that analyzes the Contractor's employee benefits cost for Grandfathered Employees and Non-Grandfathered Employees on a per capita basis per full time equivalent employee and as a percent of payroll and compares it with the cost reported by the U.S. Chamber of Commerce Annual Employee Benefits Cost Survey or other Contracting Officer approved broad based national survey.
- (4) When the net benefit value exceeds the comparator group by more than five percent, the Contractor shall submit a corrective action plan to the Contracting Officer for approval.
 - (5) When the average total benefit per capita cost or total benefit cost as a percent of payroll exceeds the comparator group by more than five percent, when and if required by the Contracting Officer, the Contractor shall submit an analysis of the specific plan costs that are above the per capita cost range or total benefit cost as a percent of payroll and a corrective action plan to achieve conformance with a Contracting Officer directed per capita cost range or total benefit cost as a percent of payroll.

- (6) Within two years of Contracting Officer approval of the Contractor's corrective action plan, the Contractor shall align employee benefit programs with the benefit value and per capita cost range as approved by the Contracting Officer.
 - (7) The Contractor shall submit the Report of Contractor Expenditures for Supplementary Compensation for the previous calendar year via the DOE Workforce Information System (WFIS) Compensation and Benefits Module no later than March 1 of the current calendar year.
 - (8) The Contractor may not terminate any benefit plan during the term of the contract without the prior approval of the Contracting Officer in writing.
 - (9) Cost reimbursement for Post Retirement Benefits (PRBs) is contingent on DOE approved service eligibility requirements for PRBs that shall be based on a minimum period of continuous employment service not less than five years under a DOE cost-reimbursement contract(s) immediately prior to retirement. Notwithstanding the previous sentence, the costs of PRBs will be reimbursed for individuals meeting the DOE-approved eligibility requirements of the applicable DOE-approved employee benefit plan. Unless required by Federal or state law, advance funding of PRBs is not allowable.
- (g) Establishment and Maintenance of Pension Plans for which DOE Reimburses Costs
- (1) For cost allocability and reimbursement purposes, any defined benefit (DB) or defined contribution (DC) pension plans established and/or implemented by the Contractor shall be maintained consistent with the requirements of the Internal Revenue Code (IRC) and Employee Retirement Income Security Act (ERISA).
 - (2) Contractor policies, practices, and procedures used in the administration of pension plans shall be consistent with applicable law and regulations.
 - (3) Employees working for the Contractor shall only accrue credit for service under this contract after the date of contract award.

- (4) Any pension plan maintained by the Contractor, for which DOE reimburses costs, shall be maintained as a separate pension plan distinct from any other pension plan which provides credit for service not performed under a DOE cost-reimbursement contract.
- (5) For each pension plan or portion of a pension plan for which DOE reimburses costs, the Contractor shall provide the Contracting Officer with the following information within nine months of the last day of the current pension plan year:
 - (i) Copies of IRS forms 5500 with schedules; and
 - (ii) Copies of all forms in the 5300 series that document the establishment, amendment, termination, spin-off, or merger of a plan.
- (6) Prior to the adoption of any changes to a pension plan for which DOE reimburses costs, the Contractor shall submit the information required below, as applicable, to the Contracting Officer for approval or disapproval and a determination as to whether the costs to be incurred are consistent with the Contractor's documented Contractor Employee Compensation Plan and are deemed allowable pursuant to FAR 31.205-6, as supplemented by DEAR 970.3102-05-6:
 - (i) For proposed changes to pension plans and pension plan funding, an analysis of the impact of any proposed changes on actuarial accrued liabilities and an analysis of relative benefit value; and
 - (ii) The Contractor shall obtain the advance written approval of the Contracting Officer for any non-statutory pension plan changes that may increase costs or liabilities, and any proposed special programs (including, but not limited to, plan-loan features, employee contribution refunds, or ancillary benefits) and shall provide DOE with an analysis of the impact of special programs on the actuarial accrued liabilities of the pension plan, and on relative benefit value, if applicable.
- (7) The Contractor shall not terminate any pension plan without at least 60 days notice to and the approval of the Contracting Officer prior to the scheduled date of plan termination.

**H.21 SPECIAL PROVISIONS APPLICABLE TO WORKFORCE TRANSITION AND
EMPLOYEE COMPENSATION: PAY AND BENEFITS**

- (a) Training. The Contractor will establish a training program specifically for the purpose of training individuals pursuant to Clauses H.19(a)(1)(iii), H.19(a)(2)(ii)(B) and (iii)(C), and H.19(a)(3)(i). The one-time training program will be provided to individual employees and will not exceed six months in duration and \$5,000 in cost (subject to availability of funding) per person, in addition to wages and benefits.
- (b) Benefit Plans. The Contractor shall provide pension and other benefit plans, to Grandfathered Employees and Non-Grandfathered Employees hired by the Contractor and service credit for leave as set forth below:
 - (1) Grandfathered Employees. Grandfathered Employees shall be provided pension and other benefits in accordance with applicable law and the provisions of the BJC MEPP, the BJC Multiple Employer Welfare Arrangement (MEWA) and other existing benefit plans for Grandfathered Employees. Within 90 days after the award of this contract, the Contractor shall become a sponsor/participating employer of the BJC MEPP, the BJC MEWA, and other existing benefit plans (or comparable successor plans if continuation of the existing plans is not practicable) including post retirement benefit (PRB) plans, as applicable, for Grandfathered Employees and retired plan participants, with primary responsibility for management and administration of these plans. The Contractor shall also have responsibility for maintaining the qualified status of the plans. No employee who qualifies as a Grandfathered Employee under the BJC MEPP shall lose the right to participate in the BJC MEPP as a result of this transition.
 - (2) Non-Grandfathered Employees. Non-Grandfathered Employees shall receive a benefits package that provides for market-based retirement and medical benefit plans that are competitive with the industry from which the Contractor recruits its employees and in accordance with this contract, any applicable collective bargaining agreement(s), and applicable law, including Section 4(c) of the Service Contract Act.
 - (3) Service Credit For Leave.
 - (i) For PRS Incumbent Employees, SST Employees, and UDS Employees hired by the Contractor pursuant to Clause H.19(a)(1)(i), (ii), and (iii), and (a)(2)(iii), the Contractor shall carry

over the length of service credit for leave as well as leave balances accrued as of the date these employees are hired by the Contractor. Service credit for the represented workforce shall be applied consistently with any applicable collective bargaining agreement(s) and applicable law.

- (ii) For USEC Employees hired by the Contractor, the Contractor shall carry over the length of service credit from USEC for purposes of determining rates of accruing leave for these employees as required by and consistent with any applicable collective bargaining agreement(s) and applicable law.
- (4) Service Credit for Fringe Benefits Other Than Leave. Consistent with the terms of the applicable benefit plan(s), the Contractor shall credit all PRS Incumbent Employees, SST Employees, and UDS Employees hired by the Contractor under this contract with their current length of service toward fringe benefits, which also includes retirement benefits and severance pay. Consistent with the terms of the plan(s), the transition of the employees during the first six months of the contract from the PRS Incumbent Contractor, SST, UDS, and USEC shall not constitute a break in service under the plan(s). Service credit for all individuals hired by the Contractor shall be determined and applied consistent with any applicable collective bargaining agreement(s), applicable law, and the terms of the applicable benefit plan(s). Service credit for purposes of severance pay is subject to Clause H.20.(e)(3)(iv).
- (c) Administrative Agreements with Lead Sponsor. The lead sponsor (BJC) or a lead sponsor successor of the BJC MEPP, BJC MEWA and other benefit plans in which the Contractor and BJC or a lead sponsor successor are participating employers/sponsors, shall have primary responsibility for management and administration of these plans. BJC or a lead sponsor successor shall provide management and administrative services for the Contractor for the BJC MEPP, BJC MEWA, and other benefit plans in which the Contractor and BJC are participating employers/sponsors. The Contractor shall enter into administrative agreements with the lead sponsor, BJC, or a lead sponsor successor, for the management and administration of these plans. The agreements and costs contained therein shall be subject to the approval of the Contracting Officer.
- (d) Annual Actuarial Evaluations. Notwithstanding the above, the Contractor has responsibility for administering and maintaining the qualified status of all pension and other benefit plans that it sponsors under this contract.

The Contractor shall submit to the Contracting Officer annual actuarial evaluations for all applicable benefit plans as well as certify that the benefit plans are in full compliance with IRC and ERISA requirements. Such certification shall demonstrate that the benefit plans are qualified under the IRC. This evaluation shall include but not be limited to written reports relating to how the benefit plans pass IRC discrimination, participation and coverage testing requirements. Each detailed annual written actuarial evaluation shall identify any conditions that may adversely affect the qualification status of the plans within eighteen months or less of the date of the evaluation, including but not limited to discrimination, participation and coverage testing requirements for the Contractor and any of its subcontractors that are participating employers in the plans.

- (1) Meeting Test Requirements. The Contractor shall closely monitor each of its individual subcontractor employer segments participating in the BJC MEPP. With the approval of the Contracting Officer, the Contractor shall establish threshold factors that – based upon the experience of the BJC MEPP regarding the testing requirements – indicate when the Contractor and/or its individual subcontractor employer segments may not meet testing requirements within the next two plan years. Every six months the Contractor shall identify any employer plan segments for the Contractor and its individual subcontractor employer segments that may not meet testing requirements for the current plan year and the following plan year.
- (2) Failure to Meet Test Requirements. In the case of employer segments for which the approved threshold factors described in Paragraph (d)(1) above and other factors as approved or requested by the Contracting Officer indicate that the employer segments may not meet testing requirements, the Contractor, in conjunction with the lead sponsor, shall provide the Contracting Officer with a corrective action plan for addressing the potential or actual failure to meet testing requirements and quarterly updates on the segment's status for testing purposes. After the corrective action plan has been submitted and approved by the Contracting Officer, the Contractor shall provide quarterly updates on the segment's status for testing purposes.
- (e) Withdrawal from the BJC MEPP. In addition to the requirement in Clause H.20 (g)(7), the Contractor shall not withdraw from the BJC MEPP or the BJC MEWA without the consent of the Contracting Officer. If the Contractor withdraws without the consent of the Contracting Officer, all costs associated with such withdrawal may be determined to be

unallowable and the Government retains the right to assert a claim against the Contractor for any costs of the Department associated with such withdrawal.

- (f) Changes to the BJC MEPP. In addition to any other provisions of this contract, including but not limited to Clauses H.20(g)(6) and (7), any changes or amendments to the BJC MEPP are subject to Contracting Officer prior approval and shall be in accordance with applicable laws, including compliance with any applicable collective bargaining agreement(s).
- (g) Equivalent Benefits to the BJC MEWA. Subject to the approval of the Contracting Officer and to the extent consistent with any applicable collective bargaining agreement(s) and applicable law, the Contractor may provide equivalent benefits to those benefits provided under the BJC MEWA to Grandfathered Employees.
- (h) Change in Name. The name(s) of the BJC MEPP, the BJC MEWA, and other benefit plans in which the Contractor and BJC are sponsors/participating employers may change as a result of a change in lead sponsorship of the above plans. Any references and requirements in this contract applicable to the BJC MEPP, the BJC MEWA, and other benefit plans contained in this contract apply to these plans as renamed.

H.22 WORKFORCE TRANSITION AND BENEFITS TRANSITION: PLANS AND TIMEFRAMES

- (a) Workforce Transition Plan. In addition to the contract transition plan required by Section F.5, Contract Transition Plan, of this contract, the Contractor shall submit a written Workforce Transition Plan (WF Transition Plan) describing in detail the Contractor's plans and procedures as to how the Contractor will comply with the requirements in this paragraph (a), the hiring preferences set forth in Clause H.19, Workforce Transition and Employee Hiring Preferences, and Clause H.21(a). Notwithstanding timeframes identified elsewhere in this contract, the Contractor shall perform the following activities in the specified timeframes:
 - (1) Within ten days after contract award, the Contractor shall:
 - (i) Submit to the Contracting Officer a description of any and all transition agreements that it intends to enter into with the Paducah Contractors to ensure compliance with Clauses H.19(a)(1) and (3) during the first 90 days after contract

award and during the six month Workforce Transition Period identified in Clause H.18(a);

- (ii) Establish and submit to the Contracting Officer a written communication plan that details the communication that the Contractor and its subcontractors will engage in with the Paducah Contractors regarding implementation of the hiring preference requirements set forth in Clauses H.19(a)(1) and (3); and
 - (iii) Provide estimated costs and detailed breakouts of the costs to accomplish workforce transition activities within the timeframes specified.
 - (iv) Obtain information from the Paducah Contractors identifying their employees that have initially been identified as being at risk of being involuntarily separated. Provide and define a process as part of the transition agreements required in Paragraph (a)(1)(i) above for obtaining updated and continuous information throughout the Workforce Transition Period regarding the identification of employees by the Paducah Contractors that have been identified as being at risk of being involuntarily separated.
- (2) Within 15 days after contract award, the Contractor shall:
- (i) Submit to the Contracting Officer copies of the draft WF Transition Plan for the Contractor and its first and second tier subcontractors, including processes and procedures regarding how the Contractor will implement and ensure compliance with the hiring preferences set forth in Clauses H.19(a)(1) and (3); and
 - (ii) Establish a written communication plan with the PRS Incumbent Employees, SST Employees, UDS Employees, and USEC Employees regarding the implementation of the hiring preferences in Clauses H.19(a)(1) and (3) and provide a copy to the Contracting Officer.
- (3) Within 30 days after contract award, the Contractor shall provide to the Contracting Officer copies of the final Workforce Transition Plan and the draft transition agreements it proposes to enter into consistent with requirements of Clauses H.19 (a)(1) and (3) and Paragraphs (a)(1) and (2) above.

- (4) Within 60 days after contract award, the Contractor shall provide to the Contracting Officer copies of the final transition agreements described in Paragraph (a)(1)(i) above.
 - (5) The Contractor shall submit reports to the Contracting Officer regarding the Contractor's and its subcontractors' implementation of the hiring preferences required by Clause H.19, Workforce Transition and Employee Hiring Preferences, in accordance with the timeframes set forth below. These reports shall include at a minimum the following information: employee hire dates or anticipated hire dates, employee salary levels, and the names of the former employers of the employees hired by the Contractor and/or hired by the Contractor's first and second tier subcontractors.
 - (i) During the 90 day contract transition period, such reports shall be provided to the Contracting Officer on a weekly basis.
 - (ii) During the remainder of the six-month Workforce Transition Period, such reports shall be provided to the Contracting Officer on a biweekly basis.
 - (iii) After the Workforce Transition Period as defined in H.18(a), such reports shall be provided within the timeframes as requested by the Contracting Officer.
 - (6) Within six months after contract award, the Contractor shall provide a written description of the process that it will utilize in obtaining information from USEC, SST, and UDS regarding their respective employees that have been identified by their employer as being at risk of being involuntarily separated in order for the Contractor to ensure compliance with Clauses H.19(a)(2) and (a)(3)(i). The Contractor shall provide copies of all and any written agreements into which it has entered with USEC, SST (Clause H.19(a)(2)(iii)) and UDS (Clause H.19(a)(2)(iii)) for transitioning their respective employees pursuant to Clauses H.19(a)(2) and (a)(3)(i).
- (b) Benefits Transition. The Contractor shall submit a written draft Benefits Transition Plan within 20 days after contract award describing in detail the Contractor's plans and procedures as to how the Contractor will comply with Clause H.20, Employee Compensation: Pay and Benefits, Clause H.21, Special Provisions Applicable to Workforce Transition and Employee Compensation: Pay and Benefits, and this Paragraph (b). The

Contractor shall provide a final written Benefits Transition Plan to the Contracting Officer within 30 days after contract award. All transitions of the BJC MEPP, the BJC MEWA and other existing benefit plans, as well as establishment of any new plans, shall be completed within 90 days after contract award.

- (1) The Contractor shall perform the following activities within the specified timeframes:
 - (i) Within ten days after contract award, the Contractor shall:
 - (A) Provide the Contracting Officer with a list of Contractor personnel who will be responsible for transition of the BJC MEPP, the BJC MEWA, and other existing benefit plans and/or development of new benefit plans, including specifically the personnel responsible for ensuring that the Contractor becomes a sponsor/participating employer of the BJC MEPP and the BJC MEWA by the Contractor and contact information for the above personnel;
 - (B) Request the Paducah Contractors and BJC to provide information and documents necessary for the Contractor to adhere to the requirements set forth in this contract pertaining to the Contractor becoming a sponsor/participating employer of the BJC MEPP, the BJC MEWA, and other existing benefits plans or establishment of any new benefits plans, including but not limited to the transition of the existing pension and other benefit plans or establishment of any new benefits plans on or before the end of the 90-day contract transition period; and
 - (C) Provide estimated costs and detailed breakouts of the costs to accomplish workforce and benefits transition activities within the timeframes specified, including the costs for enrolled actuaries and counsel.
 - (ii) Within 15 days after contract award, the Contractor shall provide to the Contracting Officer a list of the information and documents that the Contractor has requested from BJC and the Paducah Contractors pertaining to the transition of the BJC MEPP, the BJC MEWA, and other existing benefit plans. The Contractor shall notify the Contracting Officer on a timely basis of any issues or problems that it encounters in obtaining

information or documents requested from BJC or any of the Paducah Contractors. Regardless of such notification, the Contractor remains responsible under this contract for ensuring compliance with the terms of this contract, including the timeframes set forth in this clause and the requirements in Clause H.19, Workforce Transition and Employee Hiring Preferences, Clause H.20, Employee Compensation: Pay and Benefits, and Clause H.21, Special Provisions Applicable to Workforce Transition and Employee Compensation: Pay and Benefits.

- (iii) Within 20 days of contract award, the Contractor shall:
 - (A) Submit a detailed description of its plans and processes, including timeframes and specific projected dates for accomplishment of each activity necessary to ensure compliance with the requirements set forth in Clauses H.20 (e) and H.21(b), including requirements pertaining to the transition of employee benefit plans; and
 - (B) Meet via televideo, teleconference, and/or in person with relevant personnel who administer the benefit plans for the PRS Incumbent Contractor and BJC. The meeting shall include the Contractor's benefit plan administrators and personnel, head of human resources, ERISA counsel, actuaries, and any and all other personnel deemed necessary by the Contractor. During such meeting, the Contractor shall discuss all matters necessary to ensure the Contractor adheres to its sponsorship obligations under Clauses H.20(e)(2) and H.21, Special Provisions Applicable to Workforce Transition and Employee Compensation: Pay and Benefits, including execution of transition agreements with BJC and the Paducah Contractors, as applicable. The minutes of the meeting as well as a written description of any substantive issues identified at the meeting shall be submitted to the Contracting Officer within two days after the meeting.
- (iv) Within 30 days after contract award and as part of the written Benefits Transition Plan, the Contractor shall provide a written description of how the existing pension and other benefit plans provided to employees pursuant to Clause H.20, Employee Compensation: Pay and Benefits, and Clause H.21, Special Provisions Applicable to Workforce Transition

and Employee Compensation: Pay and Benefits, will be amended or restated on or before the last day of the 90 day contract transition period. If an asset transfer(s) and/or the creation of a new benefit plan(s) are necessary in order for the Contractor to adhere to the benefits sponsorship requirements set forth in this contract, the Contractor shall provide a description of the necessary transactions, including but not limited to how the Contractor proposes to comply with this contract and applicable law governing such transactions.

- (v) Within 45 days after contract award, the Contractor shall:
 - (A) Submit to the Contracting Officer a draft Contractor Employee Compensation Plan demonstrating how the Contractor will comply with the requirements of this contract regarding employee compensation. The draft Contractor Employee Compensation Plan shall describe the Contractor's policies regarding compensation, pensions and other benefits, and how these policies will support at reasonable cost the effective recruitment and retention of a highly skilled, motivated, and experienced workforce.
 - (B) Submit to the Contracting Officer drafts of all amendments to or restatements of the pension and other benefit plans presently sponsored by BJC and the PRS Incumbent Contractor, including but not limited to amendments effectuating the Contractor becoming a sponsor/participating employer in the BJC MEPP. If applicable, the Contractor shall also submit all draft restated benefit plans and draft Summary Plan Descriptions (SPDs) for pension and other benefit plans sponsored by BJC or lead sponsor successor and/or the PRS Incumbent Contractor. Any and all such amendments shall comply with applicable law governing such transactions and changes in sponsorship of the plans.
 - (C) Submit to the Contracting Officer drafts of any new benefit plan(s) as well as draft SPDs that the Contractor proposes to sponsor.
 - (D) Provide draft copies of the transition agreements which the Contractor will enter into with BJC or lead sponsor successor and the Paducah Contractors to ensure the

Contractor's compliance with the pay and benefits requirements set forth in Clauses H.20, Employee Compensation: Pay and Benefits, and H.21 Special Provisions Applicable to Workforce Transition and Employee Compensation: Pay and Benefits. Copies of these executed final transition agreements shall be provided within one day after execution but no later than the last day of the contract transition period.

- (vi) No later than 60 days after contract award and prior to the adoption of the documents identified in Paragraphs (b)(1)(v)(B) and (C) above, the Contractor shall submit to the Contracting Officer the proposed final versions of these documents for approval.
 - (vii) The Contractor shall respond to any comments provided by the Contracting Officer under any of the above paragraphs within two days of receipt of the comments.
- (2) After the six month Workforce Transition Period and throughout the remaining period of performance of the contract, the Contractor shall provide the following information promptly to the Contracting Officer upon the request of the Contracting Officer:
- (i) Documents relating to benefit plans offered to Contractor Employees, including but not limited to SPDs, all Plan documents, applicable amendments, employee handbooks that summarize benefits provided to employees and other documents that describe benefits provided to employees of the Contractor who perform work on this contract, and
 - (ii) Any and all other documents pertaining to implementation of and compliance with implementation of the compensation and benefit programs identified in Clause H.20, Employee Compensation: Pay and Benefits, and Clause H.21, Special Provisions Applicable to Workforce Transition and Employee Compensation: Pay and Benefits.

H.23 POST-CONTRACT RESPONSIBILITIES FOR PENSION AND OTHER BENEFIT PLANS

- (a) If this contract expires, terminates, and/or is terminated partially or completely and DOE has awarded a contract under which a new contractor becomes a sponsor/participating employer and assumes responsibility for management and administration of the BJC MEPP, the

BJC MEWA, or any other benefit plans (collectively, the "Plans"), covering active or retired Grandfathered Employees with respect to employees at Paducah and Paducah Gaseous Diffusion Plant sites and Non-Grandfathered Employees at the Paducah Gaseous Diffusion Plant site, the Contractor shall cooperate with and transfer to the new contractor the responsibility for sponsorship, and management and administration of such Plans consistent with direction from the Contracting Officer.

- (b) If this contract expires, terminates and/or is terminated partially or completely and DOE has not awarded a contract to a new contractor under which a new contractor becomes a sponsor and/or primary sponsor and/or assumes partial or primary responsibility for management and administration of the Plans, or if the Contracting Officer determines that the scope of work under this contract has been completed (any one such event may be deemed by the Contracting Officer to be "Contract Completion" for purposes of this clause), whichever is earlier, and notwithstanding any other obligations and requirements concerning expiration or termination under any other clause of this contract, the following actions shall occur regarding the Contractor's obligations regarding the Plans at the time of Contract Completion:
 - (1) Subject to Paragraph (b)(2) below, and notwithstanding any legal obligations independent of this contract, the Contractor may have regarding responsibilities for sponsorship, management, and administration of the Plans, the Contractor shall remain a sponsor/participating employer of the Plans, in accordance with applicable legal requirements.
 - (2) The Contractor and DOE shall exercise their best efforts to reach agreement on the Contractor's responsibilities for sponsorship, management and administration of the Plans prior to or at the time of "Contract Completion." However, if the parties have not reached agreement on the Contractor's responsibilities for sponsorship, management and administration of the Plans prior to or at the time of "Contract Completion," unless and until such agreement is reached, the Contractor shall comply with written direction from the Contracting Officer regarding the Contractor's responsibilities for continued provision of pension and welfare benefits under the Plans, including but not limited to continued sponsorship of the Plans, in accordance with applicable legal requirements. To the extent that the Contractor incurs costs in implementing direction from the Contracting Officer, the Contractor's costs will be reimbursed pursuant to applicable contract provisions.

- (c) In the event a transfer of assets in the BJC MEPP is determined to be necessary, the Contractor shall cooperate fully in the transfer of any assets in a manner consistent with any fiduciary duty, applicable law and subject to the approval and direction of the Contracting Officer.

H.24 LABOR RELATIONS

- (a) The Contractor shall respect the right of employees to organize and to form, join, or assist labor organizations, to bargain collectively through their chosen labor representatives, to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and to refrain from any or all of these activities.
- (b) The Contractor shall meet with the Contracting Officer or designee(s) for the purpose of reviewing the Contractor's bargaining objectives prior to negotiations of any collective bargaining agreement or revision thereto and shall consult with and obtain the approval of the Contracting Officer regarding appropriate economic bargaining parameters, including those for pension and medical benefit costs, prior to the Contractor entering into the collective bargaining process. During the collective bargaining process, the Contractor shall notify the Contracting Officer before submitting or agreeing to any collective bargaining proposal which can be calculated to affect allowable costs under this contract or which could involve other items of special interest to the Government. During the collective bargaining process, the Contractor shall obtain the approval of the Contracting Officer before proposing or agreeing to changes in any pension or other benefit plans.
 - (1) The Contractor will seek to maintain harmonious bargaining relationships that reflect a judicious expenditure of public funds, equitable resolution of disputes and effective and efficient bargaining relationships consistent with the requirements of FAR Subpart 22.1 and DEAR Subpart 970.2201 and all applicable Federal and state labor relations laws.
 - (2) The Contractor will notify the Contracting Officer or designee in a timely fashion of all labor relations issues and matters of local interest including organizing initiatives, unfair labor practice, work stoppages, picketing, labor arbitrations, and settlement agreements and will furnish such additional information as may be required from time to time by the Contracting Officer.
- (c) Consistent with applicable labor laws and regulations for that work that is being performed by members of United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers

Union (USW) on the effective date of this contract, the Contractor agrees to initially consult with USW regarding the initial terms and conditions of employment and to recognize USW as the collective-bargaining representative for employees performing work that has historically and traditionally been performed by USW members and is covered in the scope of this contract, and to bargain in good faith to a collective bargaining agreement that gives due consideration to applicable terms and conditions of the existing PRS, SST, UDS, and USEC collective bargaining agreements for work at the Paducah Gaseous Diffusion Plant site.

Section J

- 1. Section J, Attachment J-1, Paducah List of Applicable Laws and Regulations (List A) is hereby amended to add the following to the Public Laws section:**

42 U.S.C. 2297h-8 (Section 633 of the Energy Policy Act of 2005), Employee Protections, United States Enrichment Corporation Privatization

- 2. Section J, Attachment J-2, Paducah List of Applicable DOE Directives (List B) is hereby amended to add the following directive:**

Directive Number	Directive Title
DOE M 205.1-8, CRD	Cyber Security Incident Management Manual

Section L

- 1. The following clause in Section L is hereby updated due to an update to the Federal Acquisition Regulation (FAR):**

L.10 FAR 52.225-12 NOTICE OF BUY AMERICAN ACT REQUIREMENT – CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (DOE DEVIATION) (FEB 2009) ALTERNATE I (DOE DEVIATION) (FEB 2008)

- Definitions. “Commercially available off-the-shelf (COTS) item,” “construction material,” “designated country construction material,” “domestic construction material,” and “foreign construction material,” as used in this provision, are defined in the clause of this solicitation entitled “Buy American Act—Construction Materials Under Trade Agreements (FEB 2009) (DOE Deviation) (FEB 2008)”.
- Requests for determination of inapplicability. An Offeror requesting a determination regarding the inapplicability of the Buy American Act

should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The Offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of clause 52.225-11 in the request. If an Offeror has not requested a determination regarding the inapplicability of the Buy American Act before submitting its offer, or has not received a response to a previous request, the Offeror shall include the information and supporting data in the offer.

(c) Evaluation of offers.

- (1) The Government will evaluate an offer requesting exception to the requirements of the Buy American Act, based on claimed unreasonable cost of domestic construction materials, by adding to the offered price the appropriate percentage of the cost of such foreign construction material, as specified in paragraph (b)(4)(i) of clause 52.225-11.
- (2) If evaluation results in a tie between an Offeror that requested the substitution of foreign construction material based on unreasonable cost and an Offeror that did not request an exception, the Contracting Officer will award to the Offeror that did not request an exception based on unreasonable cost.

(d) Alternate offers.

- (1) When an offer includes foreign construction material, other than designated country construction material, that is not listed by the Government in this solicitation in paragraph (b)(3) of clause 52.225-11, the Offeror also may submit an alternate offer based on use of equivalent domestic or designated country construction material.
- (2) If an alternate offer is submitted, the Offeror shall submit a separate Standard Form 1442 for the alternate offer, and a separate price comparison table prepared in accordance with paragraphs (c) and (d) of clause 52.225-11 for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.
- (3) If the Government determines that a particular exception requested in accordance with paragraph (c) of clause 52.225-11 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic or designated country construction material, and the Offeror shall be required to furnish

such domestic or designated country construction material. An offer based on use of the foreign construction material for which an exception was requested—

- (i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or
- (ii) May be accepted if revised during negotiations.